

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:13-cv-394-WEB
(3:08-cr-93-WEB-DCK-2)**

DAVID A. HAGEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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ORDER

THIS MATTER is before the Court on consideration of what the Court finds is Petitioner's second motion for extension of time to file a reply to the Government's motion for summary judgment.

On January 15, 2014, the Government filed its motion for summary judgment and certified that the motion and supporting response had been served on Petitioner at the address that is on file with the Clerk's office. (Doc. Nos. 20, 22). In the motion for summary judgment, the Government specifically incorporated by reference the Response to Petitioner's Motion to Vacate, Set Aside or Correct Sentence and all exhibits that were filed therewith. On January 16, 2014, the Court entered a Roseboro Order informing Petitioner of his obligation to respond to the Government's motion for summary judgment and the same was served on Petitioner that day by U.S. Mail. (Doc. No. 24).

On January 28, 2014, the Clerk docketed Petitioner's motion to fix a time to file his reply to the Government's motion for summary judgment. (Doc. No. 27). The Court granted the

motion in part and provided Petitioner with up to and including March 24, 2014 in order to file his response to the Government's contention that all of his claims for relief were without merit, and that his § 2255 petition should be denied without an evidentiary hearing. (Doc. No. 28). On February 19, 2014, the Clerk docketed this second motion for extension of time and Petitioner's "Opposition to Government's Motion for Summary Judgment." (Doc. Nos. 29, 30). Petitioner asks that the Court "NOT misconstrue this motion in opposition to summary judgment as his traverse to the Government's Response to Petitioner's Motion." (Doc. No. 30 at 2) (emphasis in original).

As noted above, the Government's motion for summary judgment incorporated by reference its Response to Petitioner's § 2255 motion, including attached exhibits. And as noted in the Court's Roseboro Order, Petitioner was informed of his right to file a response. Petitioner's present motion will be denied as the Court has already twice made clear that he may file a response to any and all arguments made by the Government and that if he chooses to do so, that he may file such response within a specified time which is on or before March 24, 2014. Petitioner is advised that should he wish to respond, or file a "Traverse" to the Government's motion for summary judgment and any response filed by the Government or exhibits filed therewith, that he may do so on or before March 24, 2014.

IT IS, THEREFORE, ORDERED that Petitioner's motion to fix additional time to reply to the Government's response is **DENIED**. (Doc. No. 29).

IT IS SO ORDERED.

This 24 February 2014.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge